

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 263 & 542

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO COURTS; INCREASING THE COURT AUTOMATION FEE IN
CIVIL CASES FILED IN THE DISTRICT AND MAGISTRATE COURTS;
PROVIDING FOR A JURY AND WITNESS FEE; INCREASING THE JUDICIAL
EDUCATION FEE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 34-6-40 NMSA 1978 (being Laws 1968,
Chapter 69, Section 42, as amended by Laws 2001, Chapter 277,
Section 1 and by Laws 2001, Chapter 279, Section 1) is amended
to read:

"34-6-40. FINANCE--FEES.--

A. Except as provided in Subsection B of this
section, district court clerks shall collect in civil matters
docketing any cause, whether original or reopened or by appeal
or transfer from any inferior court, a fee of [~~one hundred~~

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~~seven dollars (\$107), ten dollars (\$10.00)]~~ one hundred
seventeen dollars (\$117), twenty dollars (\$20.00) of which
shall be deposited in the court automation fund and twenty-five
dollars (\$25.00) of which shall be deposited in the civil legal
services fund.

B. In those matters where the fee provided for in
Section 40-12-6 NMSA 1978 is collected, district court clerks
shall collect a fee of one hundred seven dollars (\$107), ten
dollars (\$10.00) of which shall be deposited in the court
automation fund and twenty-five dollars (\$25.00) of which shall
be deposited in the civil legal services fund.

~~[B.]~~ C. No fees or costs shall be taxed against the
state, its political subdivisions or the nonprofit corporations
authorized to be formed under the Educational Assistance Act.

~~[C.]~~ D. Except as otherwise specifically provided
by law, docket fees shall be paid into the general fund."

Section 2. Section 35-6-1 NMSA 1978 (being Laws 1968,
Chapter 62, Section 92, as amended) is amended to read:

"35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF
"CONVICTED".--

A. Magistrate judges, including metropolitan court
judges, shall assess and collect and shall not waive, defer or
suspend the following costs:

docket fee, criminal actions under Section 29-5-1 NMSA
1978 \$ 1.00;

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1 docket fee, to be collected prior to docketing any other
2 criminal action, except as provided in Subsection B
3 of Section 35-6-3 NMSA 1978 20.00.
4 Proceeds from this docket fee shall be transferred
5 to the administrative office of the courts for
6 deposit in the court facilities fund;
7 docket fee, [~~ten dollars (\$10.00)~~] twenty dollars (\$20.00)
8 of which shall be deposited in the court automation
9 fund and fifteen dollars (\$15.00) of which shall be
10 deposited in the civil legal services fund, to be
11 collected prior to docketing any civil action,
12 except as provided in Subsection A of Section 35-6-3
13 NMSA 1978 [~~62.00~~] 72.00;
14 jury fee, to be collected from the party demanding trial
15 by jury in any civil action at the time the demand
16 is filed or made 25.00;
17 copying fee, for making and certifying copies of any
18 records in the court, for each page copied by
19 photographic process 50.
20 Proceeds from this copying fee shall be transferred
21 to the administrative office of the courts for
22 deposit in the court facilities fund; and
23 copying fee, for computer-generated or electronically
24 transferred copies, per page 1.00.
25 Proceeds from this copying fee shall be transferred

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1 to the administrative office of the courts for
2 deposit in the court automation fund.

3 Except as otherwise specifically provided by law, docket
4 fees shall be paid into the court facilities fund.

5 B. Except as otherwise provided by law, no other
6 costs or fees shall be charged or collected in the magistrate
7 or metropolitan court.

8 C. The magistrate or metropolitan court may grant
9 free process to any party in any civil proceeding or special
10 statutory proceeding upon a proper showing of indigency. The
11 magistrate or metropolitan court may deny free process if it
12 finds that the complaint on its face does not state a cause of
13 action.

14 D. As used in this subsection, "convicted" means the
15 defendant has been found guilty of a criminal charge by the
16 magistrate or metropolitan judge, either after trial, a plea of
17 guilty or a plea of nolo contendere. Magistrate judges,
18 including metropolitan court judges, shall assess and collect
19 and shall not waive, defer or suspend the following costs:

20 (1) corrections fee, to be collected upon
21 conviction from persons convicted of violating any provision of
22 the Motor Vehicle Code involving the operation of a motor
23 vehicle, convicted of a crime constituting a misdemeanor or a
24 petty misdemeanor or convicted of violating any ordinance that
25 may be enforced by the imposition of a term of imprisonment as

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1 follows:

2 in a county with a metropolitan court \$10.00;

3 in a county without a metropolitan court 20.00;

4 (2) court automation fee, to be collected upon
5 conviction from persons convicted of violating any provision of
6 the Motor Vehicle Code involving the operation of a motor
7 vehicle, convicted of a crime constituting a misdemeanor or a
8 petty misdemeanor or convicted of violating any ordinance that
9 may be enforced by the imposition of a term of
10 imprisonment 10.00;

11 (3) traffic safety fee, to be collected upon
12 conviction from persons convicted of violating any provision of
13 the Motor Vehicle Code involving the operation of a motor
14 vehicle 3.00;

15 (4) judicial education fee, to be collected upon
16 conviction from persons convicted of operating a motor vehicle
17 in violation of the Motor Vehicle Code, convicted of a crime
18 constituting a misdemeanor or a petty misdemeanor or convicted
19 of violating any ordinance punishable by a term of
20 imprisonment [~~2.00~~] 3.00;

21 (5) jury and witness fee, to be collected upon
22 conviction from persons convicted of operating a motor vehicle
23 in violation of the Motor Vehicle Code, convicted of a crime
24 constituting a misdemeanor or a petty misdemeanor or convicted
25 of violating any ordinance punishable by a term of imprisonment

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1 5.00;

2 [~~5~~] (6) brain injury services fee, to be
3 collected upon conviction from persons convicted of violating
4 any provision of the Motor Vehicle Code involving the operation
5 of a motor vehicle 5.00;
6 and

7 [~~6~~] (7) court facilities fee, to be collected
8 upon conviction from persons convicted of violating any
9 provision of the Motor Vehicle Code involving the operation of
10 a motor vehicle, convicted of a crime constituting a
11 misdemeanor or a petty misdemeanor or convicted of violating
12 any ordinance that may be enforced by the imposition of a term
13 of imprisonment as follows:

- 14 in a county with a metropolitan court 24.00;
- 15 in any other county 10.00.

16 E. Metropolitan court judges shall assess and collect
17 and shall not waive, defer or suspend as costs a mediation fee
18 not to exceed five dollars (\$5.00) for the docketing of small
19 claims and criminal actions specified by metropolitan court
20 rule. Proceeds of the mediation fee shall be deposited into
21 the metropolitan court mediation fund."

22 Section 3. Section 35-7-4 NMSA 1978 (being Laws 1968,
23 Chapter 62, Section 99, as amended) is amended to read:

24 "35-7-4. MAGISTRATE ADMINISTRATION--MONTHLY
25 REMITTANCES.--Each magistrate court shall pay to the

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1 administrative office of the courts, not later than the date
2 each month established by regulation of the director of the
3 administrative office, the amount of all fines, forfeitures and
4 costs collected by ~~him~~ the court during the previous month,
5 except for amounts disbursed in accordance with law. The
6 administrative office shall return to each magistrate court a
7 written receipt itemizing all money received. The
8 administrative office shall deposit the amount of all fines and
9 forfeitures with the state treasurer for credit to the current
10 school fund. The administrative office shall deposit the
11 amount of all costs, except all costs collected pursuant to
12 Subsections D and E of Section 35-6-1 NMSA 1978, for credit to
13 the general fund. The amount of all costs collected pursuant
14 to Subsections D and E of Section 35-6-1 NMSA 1978 shall be
15 credited as follows:

16 A. the amount of all costs collected pursuant to
17 Paragraph (1) of Subsection D of Section 35-6-1 NMSA 1978 for
18 credit to the local government corrections fund;

19 B. the amount of all costs collected pursuant to
20 Paragraph (2) of Subsection D of Section 35-6-1 NMSA 1978 for
21 credit to the court automation fund;

22 C. the amount of all costs collected pursuant to
23 Paragraph (3) of Subsection D of Section 35-6-1 NMSA 1978 for
24 credit to the traffic safety education and enforcement fund;

25 D. the amount of all costs collected pursuant to

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1 Paragraph (4) of Subsection D of Section 35-6-1 NMSA 1978 for
2 credit to the judicial education fund; [~~and~~]

3 E. the amount of all costs collected pursuant to
4 Paragraph (5) of Subsection D of Section 35-6-1 NMSA 1978 for
5 credit to the jury and witness fee fund;

6 F. the amount of all costs collected pursuant to
7 Paragraph (6) of Subsection D of Section 35-6-1 NMSA 1978 for
8 credit to the brain injury services fund;

9 G. the amount of all costs collected pursuant to
10 Paragraph (7) of Subsection D of Section 35-6-1 NMSA 1978 for
11 credit to the court facilities fund; and

12 [~~E.~~] H. the amount of all costs collected pursuant to
13 Subsection E of Section 35-6-1 NMSA 1978 for credit to the
14 metropolitan court mediation fund."

15 Section 4. Section 35-14-11 NMSA 1978 (being Laws 1983,
16 Chapter 134, Section 6, as amended) is amended to read:

17 "35-14-11. MUNICIPAL ORDINANCE--COURT COSTS--
18 COLLECTION--PURPOSE.--

19 A. Every municipality shall enact an ordinance
20 requiring assessment of corrections fees, judicial education
21 fees and court automation fees to be collected as court costs
22 and used as provided in this section.

23 B. A municipal judge shall collect the following
24 costs:

25 (1) a corrections fee of twenty dollars

1 (\$20.00);

2 (2) a judicial education fee of [~~two dollars~~
3 ~~(\$2.00)] three dollars (\$3.00); and~~

4 (3) a court automation fee of six dollars
5 (\$6.00).

6 C. The fees are to be collected upon conviction from
7 persons convicted of violating any ordinance relating to the
8 operation of a motor vehicle or any ordinance that may be
9 enforced by the imposition of a term of imprisonment.

10 D. All money collected pursuant to Paragraph (1) of
11 Subsection B of this section shall be deposited in a special
12 fund in the municipal treasury and shall be used for:

13 (1) municipal jailer or juvenile detention
14 officer training;

15 (2) the construction planning, construction,
16 operation and maintenance of a municipal jail or juvenile
17 detention facility;

18 (3) paying the cost of housing municipal
19 prisoners in a county jail or detention facility or housing
20 juveniles in a detention facility;

21 (4) complying with match or contribution
22 requirements for the receipt of federal funds relating to jails
23 or juvenile detention facilities;

24 (5) providing inpatient treatment or other
25 substance abuse programs in conjunction with or as an

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1 alternative to jail sentencing;

2 (6) defraying the cost of transporting prisoners
3 to jails or juveniles to juvenile detention facilities; or

4 (7) providing electronic monitoring systems.

5 E. A municipality may credit the interest collected
6 from fees deposited in the special fund pursuant to Subsection
7 D of this section to the municipality's general fund.

8 F. All money collected pursuant to Paragraph (2) of
9 Subsection B of this section shall be remitted monthly to the
10 state treasurer for credit to the judicial education fund and
11 shall be used for the education and training, including
12 production of bench books and other written materials, of
13 municipal judges and other municipal court employees.

14 G. All money collected pursuant to Paragraph (3) of
15 Subsection B of this section shall be remitted monthly to the
16 state treasurer for credit to the municipal court automation
17 fund and shall be used for the purchase, maintenance and
18 operation of court automation systems in the municipal courts.
19 Operation includes staff expenses, temporary or otherwise, and
20 costs as needed to comply with Section 35-14-12 NMSA 1978. The
21 court automation systems shall have the capability of
22 providing, on a timely basis, electronic records in a format
23 specified by the judicial information systems council.

24 H. As used in this section, "convicted" means the
25 defendant has been found guilty of a criminal charge by a

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1 municipal judge, either after trial, a plea of guilty or a plea
2 of nolo contendere."

3 Section 5. Section 66-8-116.3 NMSA 1978 (being Laws 1989,
4 Chapter 318, Section 35, Laws 1989, Chapter 319, Section 14 and
5 Laws 1989, Chapter 320, Section 5, as amended) is amended to
6 read:

7 "66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS--ADDITIONAL
8 FEES.--In addition to the penalty assessment established for
9 each penalty assessment misdemeanor, there shall be assessed:

10 A. in a county without a metropolitan court, twenty
11 dollars (\$20.00) to help defray the costs of local government
12 corrections;

13 B. a court automation fee of ten dollars (\$10.00);

14 C. a traffic safety fee of three dollars (\$3.00),
15 which shall be credited to the traffic safety education and
16 enforcement fund;

17 D. a judicial education fee of [~~two dollars (\$2.00)~~]
18 three dollars (\$3.00), which shall be credited to the judicial
19 education fund;

20 E. a jury and witness fee of five dollars (\$5.00),
21 which shall be credited to the jury and witness fee fund;

22 [~~E.~~] F. a brain injury services fee of five dollars
23 (\$5.00), which shall be credited to the brain injury services
24 fund; and

25 [~~F.~~] G. a court facilities fee as follows:

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1 in a county with a metropolitan court \$24.00;
2 in any other county 10.00."

3 Section 6. Section 66-8-119 NMSA 1978 (being Laws 1968,
4 Chapter 62, Section 159, as amended) is amended to read:

5 "66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

6 A. The division shall remit all penalty assessment
7 receipts, except receipts collected pursuant to Subsections A
8 through [F] G of Section 66-8-116.3 NMSA 1978, to the state
9 treasurer for credit to the general fund.

10 B. The division shall remit all penalty assessment
11 fee receipts collected pursuant to:

12 (1) Subsection A of Section 66-8-116.3 NMSA 1978
13 to the state treasurer for credit to the local government
14 corrections fund;

15 (2) Subsection B of Section 66-8-116.3 NMSA 1978
16 to the state treasurer for credit to the court automation fund;

17 (3) Subsection C of Section 66-8-116.3 NMSA 1978
18 to the state treasurer for credit to the traffic safety
19 education and enforcement fund;

20 (4) Subsection D of Section 66-8-116.3 NMSA 1978
21 to the state treasurer for credit to the judicial education
22 fund;

23 (5) Subsection E of Section 66-8-116.3 NMSA 1978
24 to the state treasurer for credit to the jury and witness fee
25 fund;

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1 (6) Subsection F of Section 66-8-116.3 NMSA 1978
2 to the state treasurer for credit to the brain injury services
3 fund; and

4 [~~(6)~~] (7) Subsection [F] G of Section 66-8-116.3
5 NMSA 1978 to the state treasurer for credit to the court
6 facilities fund."

7 Section 7. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2009.

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